

**IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT
IN AND FOR INDIAN RIVER COUNTY, FLORIDA**

CASE NO.:

JUDGE:

Plaintiff(s).

v.

Defendant(s).

CIRCUIT CIVIL JURY/NON-JURY DIVISION
AGREED CASE MANAGEMENT PLAN AND ORDER

In compliance with Florida Rules of Judicial Administration, Rule 2.250(a)(1)(B) and Rule 2.545, and Florida Rules of Civil Procedure, Rule 1.440, the parties hereby submit the following Agreed Case Management Plan to the Court for approval:

Jury Trial or Non-Jury Trial? Delineation Shall Constitute a Waiver Pursuant to FRCP 1.430:

_____ JURY TRIAL

_____ NON-JURY TRIAL

Case Track Assignment (check one-must be completed for cases filed 1/1/19 or thereafter):

_____ Expedited Track (case resolved within 12 months):
(discovery and alternative dispute resolution to be completed within 270 days after the complaint is filed and a final disposition entered within 365 days after the complaint is filed)

_____ Standard Track (case resolved within 18 months):
(discovery and alternative dispute resolution be completed within 450 days after the complaint is filed and a final disposition entered within 540 days after the complaint is filed)

_____ Complex Track (case resolved within 2 years):
(case will likely be declared complex per Florida Rules of Civil Procedure, Rule 1.201)

<i>EVENT</i>	<i>REQUIRED DEADLINE PRIOR TO E-DOCKET CALL</i>	<i>AGREED DATE</i>
Disclosure of Expert Witnesses with deposition dates	Plaintiff: 90 Days Defendant: 75 Days	Plaintiff: Defendant:
Disclosure of Fact Witnesses	All Parties: 75 Days	
Last Discovery Requests	70 Days	
Depositions	50 Days	
Exhibit List	40 Days	

All Discovery Matters HEARING	40 Days	
Deposition Designations	40 Days	
Deposition Counter Designations	30 Days	
Deposition Designations HEARING	20 Days	
Daubert Motions HEARING	30 Days	
Motions in Limine/Summary Judgment HEARING	30 Days	
Mediation	30 Days	
Motions to Strike-Witness/Exhibits HEARING	30 Days	
All Trial Matters HEARING	30 Days	
Attorney Pre-Trial Meeting	20 Days	
JOINT Pre-Trial Stipulation	Due with E-Docket Call Form	
AGREED & DISPUTED Jury Instructions	Due with E-Docket Call Form	
Other Deadlines or Events		
Estimated E-Docket Call Month/Year Case Prepared to Go To Trial		
Estimated Days of Trial		

The above-referenced schedule of deadlines will be strictly adhered to by the parties unless a change is otherwise agreed to by the parties and approved by the Court. The Court will consider a request to approve changes to these deadlines upon a showing of good cause by either party based on matters arising from an emergency nature or unforeseen issues. However, once the Agreed Case Management Plan has been approved by the Court, procrastination in completing discovery or the unavailability of counsel will not constitute good cause for a change to these deadlines. The failure to abide by these deadlines may result in sanctions by the Court, including the award of attorney's fees, the striking of pleadings, and/or dismissal of the action.

I. MOTIONS AND HEARINGS

These are deadlines. Do not wait until deadline to schedule hearings. Due to docket management constraints, absent good cause shown, motions will not be heard after the deadlines set forth herein. Failure to follow this requirement constitutes abandonment of the issue and waiver of the motion. Motions to compel discovery must be set at the time of the violation, not on the eve of trial, and will not be heard past the discovery deadline. Do

not set for hearing: motions to dismiss, motions to continue or motions for new trial/rehearing. All such motions are considered in camera by written motion. If you set such motion for hearing, it may be unilaterally cancelled by the Court.

II. DISCLOSURE OF WITNESSES

Subject to the provision of F.S. 57.071(2), which shall govern in the event of conflict, the parties are responsible to disclose the names and addresses of all potential expert witnesses, along with the nature of their expertise, and a brief statement of the opinion testimony that will or may be offered. If a report has been created by the expert, a copy (if written) or a written summary (if oral) must also be provided within the same time frames. All out-of-court testing, experiments or physical or mental examinations must be completed by an expert prior to the expert's deposition.

As a party discloses expert(s), it shall give in writing three (3) available deposition dates for each expert. Opposing counsel shall select one of the provided dates within five (5) business days from receipt of disclosure or must request new dates. Experts will be made available for deposition by the party retaining them without necessity of subpoena.

The names and addresses of all potential fact witnesses, and a summary of the nature of their testimony, must be disclosed. Except for stating "all witnesses listed by other parties," witnesses must be specifically named. Incorporating "all persons deposed or named in depositions or evidence produced," or such similar provision, is not acceptable. The depositions of all witnesses must be completed no later than 50 days prior to the first day of the month of your estimated E-Docket Call month. All witnesses must be made available for depositions prior to the deposition cutoff date or they will not be permitted to testify.

III. MEDIATION

Plaintiff's counsel must coordinate the mediation conference and must submit an order setting mediation to the Court. The following rules for mediation apply, and must be specifically listed in the mediation order:

- a. The personal appearance of counsel who will try the case and their clients (a management representative if a corporate party) with full authority to enter into a full and complete compromise and settlement is mandatory. An insured party must have a fully authorized representative, not just the attorney for the insurance company, attend the mediation conference. The insurance representative must have written authority to settle the case up to the policy limits, and must present the authority to the mediator at the beginning of the mediation session.

- b. The Court will impose sanctions for all parties that do not personally attend the conference. The participants must be prepared to spend as much time as is necessary to settle the case or until an impasse is declared by the mediator.
- c. The parties must present a brief written summary of the facts and issues to the mediator five (5) days before the conference.
- d. All discussions, representations and statements made at the mediation conference are privileged as settlement negotiations.
- e. Unless agreed otherwise by the parties, the mediator must be compensated equally by the parties.

IV. ATTORNEYS PRE-TRIAL MEETING TO INCLUDE:

- a. Discuss settlement.
- b. Stipulate to as many facts and issues as possible.
- c. Prepare a Pre-Trial Stipulation.
- d. Examine all exhibits and documents which may be offered into evidence or used demonstratively. It is not acceptable to view photocopies, descriptions or summaries of what the exhibit will be. Objections at trial that an exhibit is not what the proponent said it would be will not be sustained if opposing counsel did not observe the actual exhibit at the pre-trial meeting required by this section.

V. PRE-TRIAL STIPULATION

No later than the first day of the month of your estimated E-Docket Call month, Plaintiff is responsible to 1) confirm that the Joint Pre-Trial Stipulation is executed by counsel for all parties, 2) email to the Judicial Assistant and 3) file in the court file. Counsel for all parties are charged with good faith cooperation in this regard, and if Plaintiff fails, Defendant is required to meet this requirement, noting Plaintiff's failure to do so in Defendant's submittal as set forth herein. The Pre-Trial Stipulation must contain the following in separate paragraphs:

- a. A brief statement of the case to be read to the prospective jurors at the beginning of jury selection.
- b. A statement of agreements and stipulated facts which require no proof at trial.
- c. A statement of all issues of law and fact for determination at trial.
- d. A specification of the damages and/or relief claimed.
- e. A statement of estimated trial time.
- f. Any other agreements.
- g. An identification of unusual issues, either evidentiary or procedural, that are expected to arise during trial.
- h. The number of peremptory challenges for each party.
- i. A list of the witnesses by name who may be called at trial, with their addresses, and a brief statement outlining the nature of each witness' testimony. Expert witnesses must be designated as such with a brief statement outlining the nature of the expertise and the opinion testimony to be offered. Witnesses not

listed cannot be called at trial. Before and after witnesses are limited to no more than three for each party. Expert witnesses are limited to no more than two in any one expert field. The Court may make such other rulings or limitations on witnesses, including experts, as the nature of the case and justice requires.

k. A list of all exhibits (including depositions to be read) which may be introduced at trial, itemized as indicated below. Counsel must note a waiver of objection for those exhibits where appropriate. All exhibits must be marked and filed with the Clerk prior to trial as follows:

1. Plaintiff's list of all exhibits to be admitted in evidence without objection by the Defendant;
2. Defendant's list of all exhibits to be admitted in evidence without objection by the Plaintiff;
3. list of all other exhibits of the Plaintiff, that are objected to by the Defendant, noting the specific evidentiary objections and the reasons therefore;
4. list of all other exhibits of the Defendant, that are objected to by the Plaintiff, noting the specific evidentiary objections and the reasons therefore;
5. Exhibits must be reasonably specific in their description. "All documents produced during discovery" or such similar description is not acceptable;

Parties may not "reserve" objections. Failure to specify objections constitutes a waiver.

VI. WITNESSES AND EXHIBITS

Unless ordered by the Court upon good cause shown, at trial the parties will be strictly limited to exhibits (demonstrative and evidentiary) and witnesses listed, and objections specified, in the Pre-Trial Stipulation. All exhibits are to be pre-marked by at the Clerk's office. For any questions regarding exhibits for Judge Croom's trials, contact the Clerk's office at 772-770-5185. Any demonstrative aid that is to be used at trial must be marked by the clerk, exhibited to opposing counsel at the pre-trial meeting, and must be listed on the Pre-Trial Stipulation. The Court will hear argument of any counsel opposing the use of a demonstrative aid prior to the day of trial. No aids are to be shown to the jury without prior approval of the Court. Once exhibits are marked, either for identification or in evidence, they become the property of the Clerk of Court and may not be altered or removed from the courtroom. No exhibits are to be published or exhibited to the jury until admitted into evidence and authorized by the Court.

VII. JURY INSTRUCTIONS

Emailed to the Judicial Assistant along with the E-Docket Call Form, and the Joint Pre-Trial Stipulation, the proposed agreed jury instructions should contain a jury instruction title for each proposed instruction, any citations, and information as to who requested the instruction. The jury instructions should be personalized to use the parties' names instead of "Plaintiff" or "Defendant." Counsel must identify all jury instructions to which there is no objection by any party. Jury instructions to which there are objections will be ruled on by the Court

during the charge conference. The Court realizes that the final form of the jury instructions and the verdict forms will depend upon the evidence received during the trial and the issues that remain at the conclusion of the presentation of the evidence, however the use of this procedure will reduce the amount of time needed for the charge conference. Final jury instructions and verdict forms must be submitted to the Court in printed form appropriate for submission to the jury.

VIII. COURT REPORTER

Fl. R. Jud. Admin 2.535(b) requires that the party requesting a court reporter must arrange for and pay the reporting fees for any hearing or trial. This requirement shall not preclude taxation of costs as authorized by law.

IX. E-DOCKET FORM

Completion of the attached E-Docket Form is required. All counsel shall discuss and agree regarding trial dates to be selected and **one form** is to be submitted. The form shall be signed by all counsel of record. **If you fail to submit the form as set forth above by the deadline, you will be set on the Trial Schedule at the will of the Court.** All forms are to be e-mailed to IRCJudge2@circuit19.org by 5:00 p.m. the first business day of the month of your estimated E-Docket Call month.

X. CASE DISPOSITIONS

If your case settles immediately notify the Court's Judicial Assistant via e-mail (showing copies provided to all parties), ATTACHING AN ALREADY E-FILED NOTICE OF SETTLEMENT, DISMISSAL DOCUMENTS AND FINAL DISPOSITION FORM. Due to the volume of cases pending, counsel should not assume that filing documentation in the court file will satisfy this requirement. Counsel must also give notification by email.

XI. TRIAL SCHEDULING

Multiple cases will be set for each week of the trial period. Cases will be stacked during your selected week(s) according to the year that the case was filed, with the older cases being placed at the top of that week's trial schedule. The order in which the cases will be called up for trial will be determined at the monthly E-Docket Call and published on-line.

Counsel for the parties are responsible for monitoring whether the cases set ahead of this case are settled or continued. Do not call the Judicial Assistant to determine the status of this case or priority of this case for the trial week. It is unacceptable to announce to the Court that counsel is not ready to proceed to trial because counsel thought another case would proceed instead. **If your case is called up and you do not appear or are not ready for trial, the case will be dismissed if you represent Plaintiff, or a default entered if you**

represent Defendant. If trial does not occur because other cases have a higher priority and there is not enough time to try the case, the case will be rolled to the next monthly E-Docket Call.

The top three cases moving forward as of 5:00 p.m. on the Monday preceding your trial are required to appear for trial. All other cases are rolled to the next E-Docket Call and are required to submit their Joint E-Docket Call Form for same. The procedures, requirements and time limits imposed by this Agreed Case Management Plan and Order are not to be deemed modified, affected, extended or changed in any manner unless by order of the Court for good cause shown. If an order extending the life of trial subpoenas is needed, a proposed order should be submitted to the Court.

XII. MOTION TO CONTINUE

Per the on-line Circuit Civil Division Guidelines and Procedures, any motion to continue must comply with Florida Rule of Civil Procedure 1.460, including requirement of signature by the party requesting continuance. Simply filing a motion to continue will not suffice to continue the case. Your case will not be continued because both parties agree and note same on the E-Docket Call Form.

XIII. COMPLIANCE REQUIRED

Any failure on the part of any counsel to act in good faith to comply with this Case Management Plan must be reported to the Court by the filing of a "Suggestion of Non-Compliance with Case Management Plan," served on all counsel, and set for hearing in a timely manner by the reporting party. NONCOMPLIANCE WITH ANY PORTION OF THIS CASE MANAGEMENT PLAN AND ORDER MAY RESULT IN THE STRIKING OF THIS CASE, WITNESSES, EXHIBITS OR IMPOSITION OF SUCH OTHER SANCTIONS AS ARE JUST.

This Order is entered in conjunction with the on-line Circuit Civil Division Guidelines and Procedures, updated December 2018, and counsel is expected to be familiar with same.

Signature, Address and Telephone Number of All Counsel and Unrepresented Parties:

ORDER APPROVING AGREED CASE MANAGEMENT PLAN

THE COURT having reviewed the preceding Agreed Case Management Plan and finding it to be satisfactory, it is ORDERED AND ADJUDGED that the Agreed Case Management Plan is hereby APPROVED AND ALL PARTIES SHALL ABIDE BY THE TERMS HEREIN.

DONE AND ORDERED in Indian River County, Florida on _____.

Circuit Court Judge

ATTACHMENT: E-DOCKET CALL FORM (to be submitted with required attachments by 5:00 p.m. the first business day of your estimated E-Docket call month to IRCJudge2@circuit19.org)

SERVICE LIST: PER CLERK OF COURT E-PORTAL SERVICE LIST

**Florida Rules of Judicial Administration Rule 2.540
Notices to Persons with Disabilities**

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact ADA Coordinator, 250 NW Country Club Drive, Suite 217, Port St. Lucie, FL 34986, (772) 807-4370 at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days; if you are hearing or voice impaired, call 711.

SPANISH:

Si usted es una persona discapacitada que necesita algún tipo de adecuación para poder participar de este procedimiento, usted tiene derecho a que se le ayude hasta cierto punto y sin costo alguno. Por favor comuníquese con Court Administration, 250 NW Country Club Drive, Suite 217, Port St. Lucie, Fl. 34986, (772) 807-4370, al menos 7 días antes de su fecha de comparecencia o inmediatamente después de haber recibido esta notificación si faltan menos de 7 días para su cita en el tribunal. Si tiene discapacidad auditiva o de habla, llame al 711.

KREYOL:

Si ou se yon moun ki andikape epi ou bezwen nenpòt akomodasyon pou ou ka patisipe nan pwosè sa-a, ou gen dwa, san ou pa gen pou-ou peye anyen, pou yo ba-ou yon seri de asistans. Tanpri kontakte Administrasyon Tribunal-la, 250 NW Country Club Drive, Suite 217, Port St. Lucie FL 34986, (772) 807-4370 omwen 7 jou alavans jou ou gen pou-ou parèt nan tribunal-la, ouswa imedyatman kote ou resevwa notifikasyon-an si ke li mwens ke 7 jou; si ou soud ouswa bèbè, rele 711.

E-DOCKET CALL FORM

To be submitted with required Joint Pre-Trial Statement and Jury Instructions by 5:00 p.m. the first business day of your designated docket call month to IRCJudge2@circuit19.org

DOCKET CALL DATE:	
FOR TRIAL PERIOD COMMENCING:	
JURY TRIAL OR NON-JURY TRIAL	JURY _____ NON-JURY _____
CASE NAME	
CASE NUMBER	
PREFERRED TRIAL WEEK(S) WITHIN TRIAL PERIOD	
NUMBER OF DAYS REQUESTED FOR TRIAL	
MORE THAN 33 JURORS REQUESTED?	
ANY TRIAL CONFLICTS / ADDITIONAL INFORMATION PERTINENT TO TRIAL SETTING	

	PLAINTIFF(S)	DEFENDANT(S)
ATTORNEY INITIALS: REQUIRED JOINT PRE-TRIAL STIPULATION ATTACHED		
ATTORNEY INITIALS: REQUIRED JOINT JURY INSTRUCTIONS ATTACHED		

PRINTED NAMES, SIGNATURES, AND E-MAIL OF ALL COUNSEL FOR PLAINTIFF(S)	

PRINTED NAMES, SIGNATURES, AND E-MAIL OF ALL COUNSEL FOR DEFENDANT(S)	